

EXHIBIT 1

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3 UNITED STATES DISTRICT COURT

4 DISTRICT OF MASSACHUSETTS

5 No. 04-CV-11948-RGS

6 SEYED MOHSEN HOSSEINI-SEDEHY,

7 Plaintiff

8 vs.

9 ERIN T. WITHINGTON and the CITY

10 OF BOSTON,

11 Defendants

12
13 DEPOSITION OF ERIN T. WITHINGTON

14 Thursday, March 31, 2005

15 10:00 a.m. - 4:32 p.m.

16 SMITH & DUGGAN LLP

17 55 Old Bedford Road

18 Lincoln, Massachusetts 01773-1125

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20
21
22 FARMER ARSENAULT BROCK LLC

23 617.790.4404 FAX 617.728.4403

24 Reporter: Cynthia C. Henderson/RPR

Erin T. Withington - March 31, 2005

<p>166</p> <p>1 want to embarrass them. I respected that of him.</p> <p>2 Q. Did that affect the thoroughness of your</p> <p>3 investigation, in your mind?</p> <p>4 A. I expected to hear from them at some point,</p> <p>5 and then a week later I was gone for two months, so</p> <p>6 I didn't really have all this time to investigate</p> <p>7 this case.</p> <p>8 Q. Did you hear from them after you got back?</p> <p>9 A. No.</p> <p>10 Q. Did you follow up with any of the telephone</p> <p>11 conversations you had with Mr. Bavis inquiring about</p> <p>12 these other "victims"?</p> <p>13 A. Yes.</p> <p>14 Q. What did he say in those telephone calls?</p> <p>15 A. "I am still talking to them. Some of them</p> <p>16 want to come in and talk to you."</p> <p>17 Q. Did that cause you any concern that Mr.</p> <p>18 Bavis still would not give you the names of these</p> <p>19 people?</p> <p>20 A. No. I wouldn't say concern, no.</p> <p>21 Q. And why not?</p> <p>22 A. I just assumed Mr. Bavis was more concerned</p> <p>23 about himself and that maybe the people, the guys</p> <p>24 that he was dealing with didn't want to come to the</p>	<p>168</p> <p>1 of bodily injury.</p> <p>2 Q. In fact, the only people that had told you</p> <p>3 they had threatened any bodily harm on any person</p> <p>4 was Bavis and Joe Perry?</p> <p>5 A. Yes.</p> <p>6 Q. So your decision to seek an arrest warrant</p> <p>7 for the arrest of Mr. Hosseini was not in any way</p> <p>8 based on your concern that Mr. Bavis would suffer</p> <p>9 any bodily injury; correct?</p> <p>10 A. Not injury, but touching, yes.</p> <p>11 (Recess.)</p> <p>12 (Incident Report prepared by Erin</p> <p>13 Withington marked Exhibit No. 17</p> <p>14 for identification.)</p> <p>15 Q. Can you identify what Exhibit 17 is?</p> <p>16 A. That is my incident report on the</p> <p>17 sexual assault case.</p> <p>18 Q. And when was that drafted?</p> <p>19 A. 3/22/04.</p> <p>20 Q. And in relationship to when you sought the</p> <p>21 arrest warrant for Mr. Hosseini, when was it</p> <p>22 drafted?</p> <p>23 A. The same day.</p> <p>24 Q. And is there a time completed on the</p>
<p>167</p> <p>1 Sexual Assault Unit and report that they had been</p> <p>2 touched by another man.</p> <p>3 Q. When you spoke with Bavis you noticed his</p> <p>4 physical appearance; correct?</p> <p>5 A. Yes.</p> <p>6 Q. And you spoke to Mr. Hosseini and you</p> <p>7 noticed his physical appearance?</p> <p>8 A. Yes.</p> <p>9 Q. Bavis is a bigger guy?</p> <p>10 A. Yes.</p> <p>11 Q. There was no threat in your mind of bodily</p> <p>12 harm that could come to Mr. Bavis as a result of</p> <p>13 this relationship; correct?</p> <p>14 MS. AMBARIK: Objection. You can</p> <p>15 answer.</p> <p>16 A. Yes.</p> <p>17 Q. If there was any concern in your mind about</p> <p>18 someone getting hurt, it was Mr. Hosseini getting</p> <p>19 hurt by Mr. Bavis or Joe Perry; correct?</p> <p>20 MS. AMBARIK: Objection. You can</p> <p>21 answer.</p> <p>22 A. I did advise Mr. Bavis and Mr. Perry to not</p> <p>23 do anything. Only judging by their size, I would</p> <p>24 assume Mr. Hosseini would have had more of a chance</p>	<p>169</p> <p>1 report?</p> <p>2 A. 10:50 a.m.</p> <p>3 Q. And how soon before you had applied for</p> <p>4 that arrest warrant did you make out this report?</p> <p>5 A. Probably right before I went down to get</p> <p>6 the arrest warrant. Maybe half an hour.</p> <p>7 Q. Now, up at the top, second line over</p> <p>8 towards the right side has "Date of Occurrence."</p> <p>9 A. Yes.</p> <p>10 Q. What date did you put?</p> <p>11 A. 1/1/03.</p> <p>12 Q. Did Mr. Bavis tell you that he was sexually</p> <p>13 assaulted by Mr. Hosseini on January 1st, 2003?</p> <p>14 A. No.</p> <p>15 Q. Did anybody tell you that Mr. Bavis was</p> <p>16 sexually assaulted by Mr. Hosseini on January 1st,</p> <p>17 2003?</p> <p>18 A. No.</p> <p>19 Q. Now, in the narrative and additional</p> <p>20 information section, what does that state?</p> <p>21 A. "In 2003 the suspect touched the victim on</p> <p>22 the buttocks and rubbed his covered crotch against</p> <p>23 the victim against his will, and on February 29 and</p> <p>24 March 23, 2004 touched and carressed the victim on</p>

BOSTON POLICE
INCIDENT REPORTORIGINAL ☒ SUPPLEMENTARY ☐

KEY SITUATIONS SEXUAL ASSAULT		COMPLAINT NO 040143112		REPORT DIST. D4		CLEARANCE DIST.	
TYPE OF INCIDENT SEX-ASSAULT, INDECENT A&B (14+)		CRIME CODE 0		STATUS		DATE OF OCCUR. A.01/01/03 - B.03/22/04	
LOCATION OF INCIDENT 900 BOYLSTON ST		APT.		DISPATCH TIME		TIME OF OCCUR. A.12:00 AM B.12:00 AM	
FIRST, MI		PHONE		SEX MALE		RACE WHITE NON-HISPANIC	
ADDRESS		APT.		OCCUPATION TEAMSTER		AGE 47	
PERSON REPORTING SAME		ADDRESS		APT.		PHONE	
WAS THERE A WITNESS TO THE CRIME							
PERSON INTERVIEWED		AGE		LOCATION OF INTERVIEW		APT.	
						HOME ADDRESS	
						APT.	
						TELEPHONE	
						RES YES NO	
						BUS	
NUMBER OF PERPETRATORS 1 --- CAN SUSPECT BE IDENTIFIED AT THIS TIME							
STATUS SUSPECT		NAME (LAST, FIRST, MI) HOSEN, MOHSEN		S.S. NO. 000-00-0000		BOOKING NO. 000000000	
WARRANT NO		ADDRESS 106 13TH STREET, CHARLESTOWN, MA, 00000-0000		SEX MALE		RACE UNKNOWN	
				AGE 42		HEIGHT DOB 5-09 10/11/1961	
SPECIAL CHARACTERISTICS (INCLUDING CLOTHING)		WEIGHT 155		BUILD THIN		HAIR BLACK	
						EYES BROWN	
CAN SUSPECT VEHICLE BE DESCRIBED							
STATUS		REG. STATE		REG. NO.		PLATE TYPE	
VEHICLE MAKE YEAR		VEHICLE NO.		STYLE		COLOR (TOP-BOTTOM)	
OPERATOR'S NAME		LICENSE NO.		STATE		OPERATOR'S ADDRESS	
OWNERS'S NAME		OWNERS'S ADDRESS					
CAN PROPERTY BE IDENTIFIED							
STATUS		TYPE OF PROPERTY		SERIAL OR IDENT-GUARD NO.		BRAND NAME-DESCRIPTION	
						MODEL	
						VALUE	
						UCR	
						YES NO	
IS THERE A SIGNIFICANT MO							
TYPE OF WEAPON-TOOL		NEIGHBORHOOD		TYPE OF BUILDING		PLACE OF ENTRY	
WEATHER		LIGHTING		TRANSPORTATION OF SUSPECT		VICTIM'S ACTIVITY	
UNUSUAL ACTIONS AND STATEMENTS OF PERPETRATOR				RELATIONSHIP TO VICTIM			
IS THERE ANY PHYSICAL EVIDENCE (DESCRIPTION AND DISPOSITION IN NARRATIVE)							
IS THERE ANY OTHER REASON FOR INVESTIGATION (REASON BELOW)							
BLOCK NO NARRATIVE AND ADDITIONAL INFORMATION IN 2003 THE SUSPECT TOUCHED THE VICTIM ON THE BUTTOCKS AND RUBBED HIS COVERED CROTCH AGAINST THE VICTIM AGAINST HIS WILL AND IN FEB 29 & MARCH 22, 2004 TOUCHED AND CARRESSED THE VICTIM ON HIS LOWER BACK AND ARMS AND HANDS AGAINST THE VICTIM'S WILL. THESE INCIDENTS TOOK PLACE AT 900 BOYLSTON STREET THE HYNES CONVENTION CENTER WHILE THE VICTIM WAS WORKING FOR THE SUSPECT.							
UNIT ASSIGNED V831		TOUR OF DUTY 2		REPORTING OFFICER'S NAME ERIN T SCHROEDER		REPORTING OFFICER'S SIGNATURE	
						REPORTING OFFICER'S ID 11456	
						PARTNER'S ID FI NO	
DATE OF REPORT 03/22/04		SPECIAL UNITS NOTIFIED (REPORTING) SEXUAL ASSAULT UNIT				TELETYPE NO.	
TIME COMPLETED 10:50 AM		PATROL SUPERVISOR NAME		PAT. SUP. ID		DUTY SUP. NAME THOMAS P MALONEY	
						DUTY SUP. SIGNATURE <i>Thomas P Maloney</i>	
						DUTY SUP. ID 6660	

